

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of Southern California Gas Company (U 904 G) Regarding Year Eight (2001-2002) of Its Gas Cost Incentive Mechanism.

Application 02-06-035  
(Filed June 17, 2002)

**SCOPING MEMO AND RULING OF THE ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE REGARDING YEAR EIGHT OF THE GAS COST INCENTIVE MECHANISM**

**Summary**

Southern California Gas Company (SoCalGas) filed its Year Eight Gas Cost Incentive Mechanism (GCIM) application on June 17, 2002. Southern California Edison Company (SCE) filed a protest to the application on July 26, 2002.<sup>1</sup> A prehearing conference was held on November 6, 2002, to discuss whether the issues raised by SCE in its protest to the application should be examined in this application or elsewhere, and to determine the procedural schedule for processing this application.

This scoping memo determines that the concerns raised by SCE in its protest will be addressed in Order Instituting Investigation (“investigation” or “I.”) 02-11-040 into the gas price spikes experienced at the California border in

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<sup>1</sup> A response to the application was filed by the Office of Ratepayer Advocates (ORA) on July 25, 2002, and a reply to SCE’s protest was filed by SoCalGas on August 5, 2002.

2000 and 2001. The two remaining issues in this proceeding will be addressed in this proceeding without evidentiary hearings.

### **Background**

SCE's protest to the SoCalGas' application asserts that the GCIM that SoCalGas operates under "creates perverse incentives, harms noncore customers, and has a detrimental impact on California energy markets." (SCE Protest, p. 3.) SCE also asserts that the GCIM formula "encourages and approves of actions by SoCalGas that raise natural gas prices to benefit company shareholders at the expense of core and noncore gas and electric customers." (*Ibid.*) SCE asserts that SoCalGas can use its transportation assets, along with its dominant position in the commodity markets at the California border, to benefit its shareholders through the GCIM. SCE contends that the GCIM structure allows SoCalGas to exercise market power or other anticompetitive behavior to benefit SoCalGas' shareholders.

At the prehearing conference of November 6, 2002, the assigned administrative law judge (ALJ) noted that the Commission was considering opening an investigation at the Commission's meeting of November 7, 2002, and that the investigation could be the forum in which SCE's issues could be addressed. On November 21, 2002, the Commission adopted I.02-11-040, which opened an investigation into the following issues, among others:

"2. Did any of the utilities' affiliates or parent companies play a role in causing the increase in border prices? Did concerns about affiliates or parents' financial position cause utilities to take actions that may have increased gas costs?

" ...

“4. Did the utilities’ gas cost incentive mechanisms create perverse incentives to increase or otherwise manipulate natural gas prices at the California border? We shall examine whether SoCalGas’ Year 7 and Year 8 operations under the GCIM, enabled them to exercise market power and/or anticompetitive behavior; If so, should these incentive mechanisms be modified or eliminated to prevent such activity.”

I.02-11-040 also stated that any party “may suggest related issues for the Commission’s consideration” as part of the investigation. (I.02-11-040, p. 8.) A prehearing conference in I.02-11-040 was held on January 9, 2003. In an ALJ ruling dated December 17, 2002 in that investigation, interested persons were allowed to identify any additional substantive issues that were not identified in the investigation that they believe should be included within the scope of that investigation.

At the November 6, 2002 prehearing conference for the Year Seven GCIM application, SCE expressed a willingness to have the issues it raised in its protest addressed in the investigation. (See A.01-06-027, November 6, 2002, Reporter’s Transcript, p. 35; A.02-06-035, November 6, 2002, Reporter’s Transcript, pp. 1-2.)

### **Scope of Issues**

In I.02-11-040, the Commission opened an investigation into the cause of gas border price spikes from March 2000 through May 2001. The first phase of this investigation will “focus on the Sempra Energy Companies to more fully explore the issues raised in SoCalGas’ GCIM proceeding....” (I.02-11-040, p. 9.) I.02-11-040 states that:

“If the investigation reveals that the conduct of respondents contributed to the gas price spikes at the California border during the named period, it may modify or eliminate the respondent’s [GCIM], reduce the amount of the shareholder award for the period involved, or order respondents to issue a refund to ratepayers to

offset the higher rates paid. If the investigation reveals that statutory laws, or rules or orders of the Commission were violated, the Commission may enter into an adjudicatory phase of this investigation.”

Based on the action taken in I.02-11-040, the issues raised by SCE in its protest to this application will be addressed in I.02-11-040. As a result, there are only two remaining issues that need to be addressed in this proceeding. The first issue is whether the calculation of the shareholder award for Year Eight under the GCIM, is correct or not. The second issue is whether SoCalGas’ acquisition operations during Year Eight were reasonable within the context of the authorized GCIM.

As noted at the November 6, 2002 prehearing conference, the first issue is straightforward, and is derived by examining ORA’s Monitoring and Evaluation Report dated December 20, 2002. No one contests the way in which the shareholder award was calculated for Year Eight.

The second issue is also addressed in ORA’s Monitoring and Evaluation Report. Although SCE has raised concerns about the way in which the GCIM is structured, and whether SoCalGas’ operations amounted to market power, anticompetitive behavior, or was a cause of the high gas prices experienced in late 2000 through spring 2001, I.02-11-040 will provide a forum for addressing those concerns. Consequently, the second issue can be addressed without waiting for I.02-11-040 to be resolved.

The two issues identified in this scoping memo do not require hearings in this proceeding. With regard to the first issue, no one disputes the manner in which SoCalGas’s shareholder award has been calculated. On the second issue, the concerns of the protestants regarding the GCIM structure will be addressed

in the investigation. No other concerns regarding the second issue have been raised which require a hearing. Accordingly, no evidentiary hearings in this Year Eight proceeding will be held.

This application was preliminary categorized as ratesetting in Resolution ALJ 176-3090 on June 27, 2002. Today's ruling confirms that categorization. Anyone who disagrees with this categorization must file an appeal of the categorization no later than ten days after the date of this ruling. (See Rule 6.4.) As a ratesetting proceeding, the ex parte rules contained in Rule 7(c) of the Commission's Rules of Practice and Procedure apply to this proceeding.

The principal hearing officer for this proceeding shall be ALJ Wong.

It is expected that this proceeding will be completed within 18 months from the filing of SoCalGas' application.

### **Schedule**

The following is the schedule that will be followed in this proceeding:

Draft decision issued.	February 28, 2003
Comments and reply comments on draft decision.	In accordance with Rule 77.7.
Decision adopted by the Commission.	April 3, 2003

### **IT IS RULED that:**

1. Administrative Law Judge John S. Wong is designated the principal hearing officer for this proceeding.
2. The issues raised by Southern California Edison Company (SCE) in its protest to this application, shall be addressed in Investigation 02-11-040.

3. The remaining issues to be determined in this proceeding are as listed in the body of this ruling.

4. The schedule for this proceeding is as listed in the body of this ruling.

Dated January 16, 2003, at San Francisco, California.

/s/ LORETTA LYNCH

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Loretta Lynch  
Assigned Commissioner

/s/ JOHN S. WONG

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John S. Wong  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Scoping Memo and Ruling of the Assigned Commissioner and Administrative Law Judge Regarding Year Eight of the Gas Cost Incentive Mechanism on all parties of record in this proceeding or their attorneys of record.

Dated January 16, 2003, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

**N O T I C E**

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